



USAID | INDIA

FROM THE AMERICAN PEOPLE

IMPLEMENTING PARTNER'S NOTICE 09-003

Date: March 18, 2009

To: All USAID/India Program-Funded Contractors and Recipients

Subject: Blanket Source and Origin Waiver for Program-Funded Motor Vehicles

Attached please find the blanket source and origin waiver for program-funded motor vehicles recently signed by the Mission Director.

For your information, USAID regulations define a long-term lease as a single lease of more than 180 days, or repetitive or intermittent leases under a single activity or program within a one-year period totaling more than 180 days, for the same type of commodity. Rental and short-term lease (less than 180 days) of vehicles is permissible when the need is occasional, with no pattern of constant use, for example, when a motor vehicle is in the repair shop or to meet short-term requirements. For this reason, it is expected that most implementing partners will have a requirement to purchase vehicles rather than entering into rental or short-term lease agreements.

Please send any questions regarding this notice to indiarco@usaid.gov.

Attachment a/s



USAID | INDIA

FROM THE AMERICAN PEOPLE

ACTION MEMORANDUM

Date: March 4, 2009

To: Elizabeth A. Hogan, Mission Director/A

From: Celeste Fulgham, OD/ROAA *C. Fulgham*

Subject: Blanket Source and Origin Waiver for Program-Funded Motor Vehicles

Action Requested:

To approve a blanket waiver of source and origin requirements to permit USAID/India implementing partners to purchase or lease vehicles from India or Code 941 countries.

Background:

In accordance with Section 636(i) of the Foreign Assistance Act of 1961 (the "FAA"), 22 CFR 228.13, and ADS 312.5.3b, only motor vehicles which have been manufactured in the United States are eligible for purchase or long-term lease with USAID funds. "Long-term lease" is defined in 22 CFR 228.12 as a lease lasting more than 180 days.

USAID is supporting various programs through its implementing partners throughout India that require motor vehicles as part of their operations. U.S. manufactured left-hand drive vehicles are not permitted for import in to India (and are considered a hazard to drive in India), and U.S. manufactured right-hand drive vehicles are currently not available in the market. To date, implementing partners that needed to purchase or lease motor vehicles have had to request a waiver every time a vehicle is purchased. A blanket waiver would eliminate this need.

Waiver Criteria:

The requirement to purchase or lease only U.S. manufactured vehicles may be waived when "special circumstances" exist. ADS E312.5.3b(2)(a) provides as follows: "Special circumstances which may merit waiving the requirement are: inability of U.S. manufacturers to provide a particular type of needed vehicle; present or projected lack of adequate service facilities and supply of spare parts for U.S. manufactured vehicles; or an emergency requirement for vehicles for which non-USAID funds are not available and which can be met in time only by purchase of non-U.S. manufactured vehicles."

ADS E312.5.3b(2)(b) provides, "When a waiver is necessary, preference must be given to procurement of vehicles which are assembled in the cooperating country or a Code 941 country using a substantial number of parts and subassemblies manufactured in the United States."

In addition, waivers for the purchase or long-term lease of non-U.S. vehicles must be authorized in accordance with Subpart F of 22 CFR 228. Pursuant to 22 CFR 228.51(a)(1), a waiver may be authorized when "a commodity required for assistance is of a type that is not produced in or available for purchase in the United States; in addition, for waivers to any country or Geographic code beyond Code 941 and the cooperating country, the commodity is of a type that is not produced in or available for purchase in any country in Code 941 or the cooperating country."

Justification:

This waiver is justified on the following grounds:

- The "special circumstances" required by ADS E312.5.3b(2)(a) exist because U.S. manufacturers are unable to provide a particular type of needed vehicle – namely, right-hand drive vehicles. While U.S. companies do make right-hand drive vehicles, they are not manufactured in the U.S., as the market for such vehicles in the Americas is quite limited (mail trucks and vehicles in former British colonies in the Caribbean).
- Similarly, the waiver criterion stated in 22 CFR 228.51(a) (1) is satisfied, as a commodity required for assistance – right-hand drive vehicles – is of a type that is not produced in or available for purchase in the United States.

Limitations:

This waiver is limited as follows:

- It authorizes the procurement of vehicles that have their source and origin only in the cooperating country (India) and/or Code 941 countries. Procurement from other Code 935 countries (for example, Japan) is not authorized by this waiver.
- In accordance with ADS E312.5.3b(2)(b), implementing partners must give preference to procurement of vehicles which are assembled in the cooperating country or a Code 941 country using a substantial number of parts and subassemblies manufactured in the United States.

Effective Dates of Waiver:

This waiver is not retroactive. It is effective from the signature date below and expires three years from that date, at which point market research will be conducted to determine if market conditions have changed.

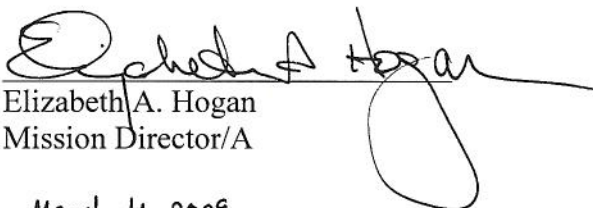
Authority:

Pursuant to ADS 310.5.5a and ADS 103.3.14.1, Mission Directors in the Asia region have the authority to waive source, origin, and nationality requirements for the procurement of goods and services, other than transportation services, in accordance with applicable criteria.

Recommendation:

That based upon the above, you approve a blanket source and origin waiver to allow implementing partners to purchase or lease motor vehicles that are manufactured in India or Code 941 countries; provided that preference is given to vehicles using a substantial number of parts and subassemblies manufactured in the United States.

Approved/Disapproved:


Elizabeth A. Hogan
Mission Director/A

March 4, 2009
Date